

Message Text

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47

ACTION AF-18

INFO OCT-01 EUR-25 ISO-00 EB-11 COME-00 L-03 CIAE-00

INR-11 NSAE-00 RSC-01 PA-04 PRS-01 USIA-15 INT-08

DRC-01 /099 W

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R 131330Z AUG 74

FM AMEMBASSY NAIROBI

TO SECSTATE WASHDC 8640

INFO AMEMBASSY LONDON

AMEMBASSY PARIS

C O N F I D E N T I A L NAIROBI 6869

DEPT FOR COOTE AF/E;

PARIS FOR MELONE; LONDON FOR HIVERKAMP

E.O. 11652: GDS

TAGS: BDIS CPRS KE US

SUBJ: SAUL CASE

1. MILLER, ACCOMPANIED BY HIS TWO LAWYERS, CALLED ON ME TODAY TO DISCUSS FURTHER ACTION ON BEHALF OF SAUL. THE AT FIRST EXPRESSED VIEW THAT DIRECT APPROACH BY ME TO PRESIDENT KENYATTA SHOULD PRECEDE ANY LEGAL ACTION WHICH THEY MIGHT TAKE. HOWEVER, WHEN I EXPLAINED RISKS TO THEIR CAUSE WHICH WOULD BE INVOLVED IN MY APPROACHING PRESIDENT AT THIS STAGE, THEY CONCLUDED THAT PROMPT LEGAL ACTION (TO BEGIN AT END OF THIS WEEK OR EARLY NEXT WEEK) WOULD BE PREFERABLE NEXT STEP.

2. LAWYERS PLAN TO FILE SUIT FOR AN INJUNCTION TO PREVENT FURTHER MINING OF SAUL'S CLAIM WITH DECLARATION THAT CLAIM BELONGS TO SAUL. SUIT WILL PROBABLY BE FILED IN MOMBASA COURT ON GROUNDS MINING CLAIM LOCATED IN AREA WITHIN JURISDICTION THAT COURT. MOREOVER, NAIROBI COURT IN RECESS WHEREAS MOMBASA COURT IS CURRENTLY IN SESSION AND PRESIDED OVER BY EUROPEAN JUDGE WHO HAS "INTERGRITY."

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IMMEDIATELY AFTER FILING SUIT, LAWYERS WOULD SEEK TEMPORARY

INJUNCTION TO BE IN EFFECT UNTIL HEARINGS ON SUIT CAN TAKE PLACE.

3. LAWYERS AND MILLER ALL AWARE OF RISKS TO THEM PERSONALLY IN UNDERTAKING THIS LEGAL ACTION (E.G., DEPORTATION), BUT ARE DETERMINED TO PROCEED. MILLER HAS DEPOSITED HIS PASSPORT AT EMBASSY IN EXCHANGE FOR RECEIPT IN HOPES THAT THIS WOULD SLOW DOWN ANY ACTION TO DEPORT HIM TO ENABLE EMBASSY TO MAKE TIMELY INTERVENTION ON HIS BEHALF. (BRITISH BUSINESSMEN IN KENYA FREQUENTLY DEPOSIT THEIR PASSPORTS AT BRITISH HIGH COMMISSION FOR THIS REASON).

4. SINCE LEGAL ACTION ON BEHALF OF SAUL WILL BE MATTER OF PUBLIC RECORD, POSSIBILITY OF PUBLICITY ON SAUL CASE INCREASED SOMEWHAT. HOWEVER, SINCE NO PROMINENT KENYAN WILL BE NAMED IN SUIT (ONLY CRITICOS), FILING OF SUIT WILL NOT ADD GREATLY TO WHAT WESTERN NEWSMEN ALREADY KNOW OF CASE AND HAVE FOR REASONS OF THEIR OWN (PARTLY FEAR OF DEPORTATION) THUS FAR REFRAINED FROM PUBLISHING. MARSHALL

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